

Amendment No. 1 to HB0249

Chumney
Signature of Sponsor

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Comm. Amdt. _____

AMEND Senate Bill No. 1443

House Bill No. 249*

by deleting in its entirety, all the language following the enacting clause, and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 39-13-306, is amended by deleting that section in its entirety and substituting instead the following.

SECTION 2. Section 39-13-306(a). It is the offense of custodial interference for a natural or adoptive parent, step-parent, grandparent, brother, sister, aunt, uncle, niece, or nephew of a child younger than eighteen (18) years of age to:

(1) remove the child from this state knowing that the removal violates this section, a temporary or permanent judgment or a court order regarding the custody or care of such child;

(2) detain the child within this state or remove the child from this state after the expiration of the non-custodial natural or adoptive parent or guardian's lawful period of visitation, intending to violate this section, a temporary or permanent judgment or a court order regarding the custody or care of such child;

(3) harbor or hide the child within or outside this state, knowing that possession of the child was obtained by another person in violation of this section, a temporary or permanent judgment or a court order; or

(4) act as an accessory to an act prohibited by this section.

SECTION 3. Section 39-13-306(b). It is the offense of custodial interference for a natural or adoptive parent, step-parent, grandparent, brother, sister, aunt, uncle, niece, or nephew of an incompetent to:

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(1) remove the incompetent from this state knowing that the removal violates this section, a temporary or permanent judgment or a court order regarding the custody or care of such incompetent;

(2) harbor or hide the incompetent within or outside this state, knowing that possession of the incompetent was obtained by another person in violation of this section, a temporary or permanent judgment or a court order; or

(3) act as an accessory to an act prohibited by this section.

SECTION 4. Section 39-13-306(c). If the child or incompetent is returned voluntarily, before an arrest, by the person who removed the child or incompetent, the person shall be convicted of a Class A misdemeanor.

SECTION 5. Section 39-13-306(d). If the child or incompetent is not returned voluntarily by the person who removed the child or incompetent or the child or incompetent is removed from the lawful custodian, in violation of this act, for a period of thirty (30) days or less it shall be a Class D felony.

SECTION 6. Section 39-13-306(e). If the child or incompetent is not returned voluntarily by the person who removed the child or incompetent or the child or incompetent is removed from the lawful custodian, in violation of this act, for a period of thirty (31) days or more it shall be a Class C felony.

SECTION 7. Section 39-13-306(f). If an aggravating factor found in Tennessee Code Annotated, Section 39-13-304, or 39-13-305, is present, except for the factor found in Tennessee Code Annotated, Section 39-13-305(a)(2), the offense may be prosecuted under

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Tennessee Code Annotated, Section 39-13-304, or 39-13-305, but otherwise prosecution shall be under this section.

SECTION 8 Section 39-13-306(g). It is a defense to custodial interference that the person who removed the child or incompetent reasonably believes that at the time the child or incompetent was removed, the failure to remove the child or incompetent would have resulted in a clear and present danger to the health, safety, or welfare of the child or incompetent.

SECTION 9. This act shall take effect July 1, 2001, the public welfare requiring it.